

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ROBERT ALLEN RYTLEWSKI,

Plaintiff,

-against-

GOVERNMENT OF THE UNITED STATES,

Defendant.

20-CV-8823 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, a resident of Michigan appearing *pro se*, initiated this action by filing a document titled “Petition Government for the redress of grievance.” (ECF No. 1.) The Clerk of Court opened this matter as a new civil action. By order dated October 26, 2020, Judge Colleen McMahon, in her capacity as Chief Judge, directed Plaintiff to either pay the full \$400.00 filing fees for a civil action or, to request permission to proceed without prepayment of fees, that is, *in forma pauperis* (IFP), submit a signed IFP application.¹ To date, Plaintiff has not paid the filing fees or submitted a completed and signed IFP application.

Plaintiff has instead filed six submissions that are not the model of clarity and do not comply with the Court’s October 26, 2020 order. On October 29, 2020, Plaintiff submitted a “Motion for leave to proceed as a Veteran filing specification(s) under Uniform Code of Military Justice Art. 107: False official statements. (10 USC § 907).” (ECF No. 4.) On November 7, 2020, Plaintiff filed a “Motion for leave to file Responsive Pleading.” (ECF No. 5.) Two days later, Plaintiff submitted a “Motion for leave to file Grievance as a Veteran under Rule 40 of the

¹ On December 1, 2020, the filing fees required to file a federal civil action increased to \$402.00 – a \$350.00 filing fee plus a \$52.00 administrative fee. Because Plaintiff’s action was filed prior to December 1, 2020, the increased filing fees do not apply to this action.

Supreme Court of the United States Rules.” (ECF No. 6.) The next day, Plaintiff filed a letter objecting to how his submissions were characterized. (ECF No. 7.) On November 12, 2020, Plaintiff filed a document titled “Pleas of the Crown Treason by counterfeit seal Crime against the United States.” (ECF No. 8.) On November 16, 2020, Plaintiff filed a document titled, “APPEAL: Pleas of the Crown Treason by counterfeit seal Crime against the United States.” (ECF No. 9.) On April 14, 2021, this matter was reassigned to my docket.

A review of this Court’s records reveals that on October 13, 2020, seven days after Plaintiff filed this action, he filed a similar action without the filing fees or a completed and signed IFP application. *See Rytlewski v. Gov’t of the United States*, No. 20-CV-8543 (LLS) (S.D.N.Y. Mar. 1, 2021) (dismissing action without prejudice for failure to pay the filing fees or submit a completed and signed IFP application), *appeal denied*, No. 20-4006 (2d Cir. Mar. 2021). In that action, Plaintiff challenged the Court’s characterization of his submission as a civil rather than a miscellaneous action and he alleged that as a veteran, he is exempt from paying the filing fees. Judge Stanton found that Plaintiff’s submission was properly opened as a civil action and that he is not exempt from paying the filing fees. (See 20-CV-8543, ECF No. 7.)

Plaintiff has failed to comply with the Court’s October 26, 2020 order in this case to submit, within thirty days, a completed and signed IFP application or pay the \$400.00 in fees required to file a civil action in this Court. That order specified that failure to comply would result in dismissal of the complaint. Accordingly, the complaint is dismissed without prejudice. *See* 28 U.S.C. §§ 1914, 1915.

CONCLUSION

Plaintiff's complaint is dismissed without prejudice for failure to pay the filing fees or submit a completed and signed IFP application.² *See* 28 U.S.C. §§ 1914, 1915.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 15, 2021
New York, New York

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
Chief United States District Judge

² Plaintiff consented to receive electronic service of notices and documents in this case. (ECF No. 2.)